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No. 95-1180

Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term, 1995

ROLAND A. JONES,

Petitioner,

vs.

FULTON COUNTY, GEORGIA,
BOARD OF COMMISSIONERS, et. al.,

Respondents.

Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITIONER'S AMENDMENT/SUPPLEMENTAL BRIEF

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This Court Should Grant This Petition To Clarify The Burden Of Proof And Standard Of Review For Pro Se Facts, Evidence, And Case Law Presented In Support Of Claims.

The 11th Circuit requires an unreasonably higher standard of proof for an untrained *pro se*, while it requires no proof from "trained" counsel opposing a *pro se*. *Hains v. Kerner*, 404 U.S. 519 520-21 (1972):

I.

Summary judgment should not have been affirmed for respondents when they had been allowed three (3) failures at biting the apple. Summary judgment should have been granted *pro se* on the constitutional claims when respondents' motion for summary judgment failed to meet its burden of proof on respondents' first bite at the apple:

> **"Defendants response is inadequate . . .for its failure to address all of plaintiff's claims." (Pet. App. K, p. 16a).**

> **"Even more surprising, defendants, in their second attempt. .. argue that the only issue in this action, despite plaintiff's numerous constitutional challenges, is whether plaintiff has an enforceable public contract . . . defendants argue against all constitutional challenges in one paragraph by stating that `[t]here is absolutely no proof in the record to support or sustain plaintiff's contentions'" (Pet. App. L, p.21a).**

> **"The Court notes that in their third motion. . . defendants again failed to comply with the rules of this Court." (Pet. App. M, p. 30a).**

> "Any motion that includes allegations of fact must include supporting affidavits. Fed. R. Civ. P. 56(e) (f). . .Thus, defendants' arguments opposing. . . plaintiff's Fifth Amendment taking claim are only unsubstantiated allegation. . ." (Pet. App. M, p. 30a).

> "Defendants' primary argument in response to plaintiff's due process charges . . .is that because plaintiff did not have an enforceable public contract with the County. . ." (Pet. App. L, p. 24a).

> "Defendants do not even attempt to respond to plaintiff's 1st Amendment claim. . ." (Pet. App. L, p. 26a).

II.

There is nothing in the court of appeals orders (Pet. Apps. A and B, pgs. 1a and 4a) that shows the court of appeals adjudicated the below Section 1983 claims/issues:

> [A]ny order or other form of decision, however designated, which adjudicates fewer than all the claims . . . shall not terminate the action as to any of the claims.

This Court's summary judgment rules require that parties go beyond the pleadings. *Celotex Corp. v. Catrett*, 477 U. S. 317 (1986), 325. As shown below, I did this. Contrary to the court of appeals contention that the record is incomplete (Pet. p. 3a), the evidence presented in this petition was presented to both of the lower courts. Based on the below, I should have been granted summary judgment:

While County Board ("Board") of Commissioners' approval is required for "contracts", no Board approval is required for purchase orders. (Pet. App. E, p. 8a). Under Section 11, Georgia Law, Act 426, County Purchasing Department Created, March 27, 1941, at 412, a purchase order is consummated when the requisition is submitted:

> "all purchases made by the County Purchasing Agent shall be made upon the receipt of requisitions signed by such officers and employees of the several agencies of the county". (Pet. App. I, pg. 13a).

b.

The Department Director, Mr. Clarence Reid, Fulton County Department of Public Buildings, approved the requisitioning of a Fulton County Purchase Order for my services for calendar year 1990 (Pet. App. C, pg. 6a), and the lawyer for respondents stipulated this as fact:

> "In December, 1989, Clarence Reid, Director of the Fulton County Public Buildings approved Purchase Order Requisition, #14383, to provide a continuation of consulting services by Roland A. Jones. . ." (R1-11-"B" & R2-23-5-7, see also "9", Biggins' Undisputed Fact "7", 7, RE).

c.

In accordance with Georgia law, the Deputy Director, Roland B. Welmaker, signed the requisition for payment for my services. (Pet. App. D, pg. 7a). Mrs. Shelandra P. Cornick confirmed that the requisition was submitted to the Fulton County Purchasing Agent (Pet. App. E. pg. 8a).

d.

On January 22, 1990, the Purchasing Agent issued a

Receiving Report Form/Purchase Order authorizing receipt services and payment of $28,008.00; and an affidavit shows my services were called for and provided:

> "THIS PURCHASE ORDER AUTHORIZES PAYMENT FOR GOODS ORDERED AND/ OR SERVICES REQUESTED BY THE PUBLIC BLDGS DEPT. - OF FULTON COUNTY DURING THE CALENDAR YEAR OF 1990 . . . TO BE FURNISHED AS CALLED FOR DURING THE YEAR 1990. (Pet. App. F, p. 9a)

> "During 1990, Mr. Bockman, Mr. Welmaker, and Mr. Ruby, by way of my reports to them, had full knowledge that Mr. Jones was providing services on a regular basis." (Pet. App. G, p. 11a, par. 4).

e.

Affidavits (Pet. App. G, p. 11a, par, 5, and App. H, p. 12a) were presented showing respondents had destroyed my property (tools of my trade), and damages are due. Contrary to the court of appeals' "Jones also contends. . . (2) that Jones is entitled to judgment on his Fifth Amendment taking claim based on the terms of the 1985-1989 contracts" (Pet. p. 3a), only the respondents invoked the "based on the terms of the 1985-1989 contracts" as a defense.

CONCLUSION

For the foregoing reasons, and those in the petition, the petition for a writ of certiorari should be granted.

Respectfully submitted,
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